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## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

12/31/2008

Blakely Sokoloff Taylor & Zafman  
12400 Wilshire Boulevard 7th Floor  
Los Angeles, CA 90025

EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 12/31/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,466	03/17/2000	Steven R. Mitchell	004576.P001	4362

TITLE OF INVENTION: PURCHASE COORDINATOR FOR ELECTRONIC COMMERCE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	03/31/2009

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

**HOW TO REPLY TO THIS NOTICE:**

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

## PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to:** **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax (571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590                    12/31/2008

**Blakely Sokoloff Taylor & Zafman**  
**12400 Wilshire Boulevard 7th Floor**  
**Los Angeles, CA 90025**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

### **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,466	03/17/2000	Steven R. Mitchell	004576.P001	4362

TITLE OF INVENTION: PURCHASE COORDINATOR FOR ELECTRONIC COMMERCE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	03/31/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
POND, ROBERT M	3625	705-026000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list  
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent):  Individual  Corporation or other private group entity  Government

4a. The following fee(s) are submitted:

- Issue Fee  
 Publication Fee (No small entity discount permitted)  
 Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- A check is enclosed.  
 Payment by credit card. Form PTO-2038 is attached.  
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.  
 b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Blakely Sokoloff Taylor & Zafman 12400 Wilshire Boulevard 7th Floor Los Angeles, CA 90025				POND, ROBERT M
		ART UNIT	PAPER NUMBER	
				3625
DATE MAILED: 12/31/2008				

## Determination of Patent Term Extension under 35 U.S.C. 154 (b)

(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 1381 day(s). Any patent to issue from the above-identified application will include an indication of the 1381 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/528,466	MITCHELL, STEVEN R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert M. Pond	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Board Decision (1/29/08); Amendment (9/2/08); Examiner's Amendment (#20081210).
2.  The allowed claim(s) is/are 1-53.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

/Robert M. Pond/  
Primary Examiner, Art Unit 3625

## REASONS FOR ALLOWANCE

The Board of Patent Appeals and Interferences reversed the Examiner on the sole argument presented by the Appellant pertaining to invention date under 37 CFR 1.131. The Appellant's invention date is prior to the filing date of the Sharp reference 01 December 1998 with an application date of 17 March 2000. The Board remand instructed the Examiner to reconsider the extent to which the claims on appeal are obvious over Messer, Blinn, Appellant's admitted prior art and other available prior art, particularly in light of *KSR International Co. v. Teleflex Inc. and Leapfrog Enterprises, Inc. v. Fisher-Price, Inc.* It was determined that Messer, Blinn, and Appellant's Admissions absent of Sharp, no longer provide defensible rejections under 35 USC 103(a). Searched noted in this office action was conducted for patent/patent publication that qualify as prior art under 102(e) filed earlier than 01 December 1998 and for patents and non-patent literature published earlier than 17 March 1999.

The following is an examiner's statement of reasons for allowance:

The field of invention relates to the field of electronic commerce and specifically relates to a method for doing business by computer on the internet to reduce sales channel conflict among channel partners.

Pertaining to claim 1. The claimed invention uses a purchase coordinator computer to sell goods based on pricing data received from retailers and at least one manufacturer. Once the purchase coordinator computer receives an order, the purchase coordinator processes a monetary transaction for the order to

distribute proceeds from the sale the goods manufacturer and one or more retailers involved in the sale. On its face, claim 1 may seem overly simplified and possibly a process practiced via manual or semi-manual means. Searches, however, failed to produce prior art implementing a computer that aggregated the pricing data necessary to compensate each entity participating in the sell of an item (good) factoring seller profit data in combination with manufacturer's cost data. Neither the previously cited prior art nor closest prior art noted below alone or in combination with other prior art teach and suggest the combinations of methods as claimed.

Regarding claims 18, 35, 42 and 53. Allowances are based on the explanations as noted above for claim 1. Claim 18 further narrows subject matter of claim 1 by including an additional step of selecting a distributor to fill the order. Claim 35 further narrows subject matter claim 18 by requiring contemporaneous crediting the manufacturer and one of the plurality of retailers. Claim 42 in a machine readable embodiment of claim 35. Claim 53 further narrows subject matter of at least claim 1.

#### Closest US Patent/Patent Publication

Shell (US 6,134,533; Paper #20081210) discloses a multi-level marketing computer network server system and methods of coordinating purchases between consumers, developers and a plurality of sellers. Product and sales information is provided by developers and retailers. Consumer access the server to view products and to make purchases. Once a purchase is made, the

developer and retailer(s) are compensated. Shell's multi-level marking system neither alone or in combination with other prior art teach and suggest the combinations of methods as claimed. Shell fails to disclose alone or in combination with prior art electronically processing a monetary transaction for the order such that the manufacturers of the goods in the order and one of the plurality of retailers are each credited with a sum representing their portion of a total value of the order according to the pricing data. The price data from each of a plurality of retailers and at least one manufacture as defined in the instant specification as: for a manufacturer, price data is cost data; for one or more retailers, price data is profit data. The claimed invention does not rely upon a multi-level marketing compensation arrangement as relied upon by Shell's invention. Under Shell, compensation is predetermined based upon established hierarchy of sellers, each member of the tier receiving compensation for a sale for being in the hierarchical chain. This is not the case for the claimed invention.

Forward and backward citations of Shell failed to produce prior art closer than Shell that alone or in combination teach and suggest the combinations of methods claimed.

#### Closest Non-patent Literature

Sportsite.com (Paper #20080520 Item U) facilitates online shopping between buyers and sellers through its central web site. When a consumer purchases a product, the order goes directly to the seller selected via the web site. While serving as a purchasing coordinator, Sportsite.com's affiliate program neither

alone nor in combination with other prior art teach and suggest the combinations of methods as claimed. Sportsite.com fails to disclose alone or in combination with prior art electronically processing a monetary transaction for the order such that the manufacturers of the goods in the order and one of the plurality of retailers are each credited with a sum representing their portion of a total value of the order according to the pricing data. The pricing data from each of a plurality of retailers and at least one manufacturer as defined in the instant specification as: for a manufacturer, price data is cost data; for one or more retailers, price data is profit data.

Applicant's Admissions previously relied upon fails to fill gaps in previously cited office action that was appealed. Fig. 9 (90) defines price data specifically to be: manufacturing cost data, distributor profit data and retailer profit data. The instant specification discusses it broadly on page 3 in the summary as the purchase coordinator obtaining product data and price data from the manufacturer, distributor and retailer and then defines what price data is and as depicted in Fig. 9. Given the subject matter support in Fig. 9 and the fact the purchase coordinator receives price data while the consumer receives a retail price, Applicant's Admissions are describing prior art that neither alone nor in combination with other prior art teach and suggest the combinations of methods as claimed.

***Conclusion***

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert M. Pond/  
Primary Examiner, Art Unit 3625  
December 19, 2008